City of Lafayette
Special City Council Meeting
MINUTES

Lafayette Community Center – Manzanita Room **August 11, 2008**
500 St. Mary's Road, Lafayette, California **6:15 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 6:15 p.m.

2. ROLL CALL

Present: Council Members: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson, Anduri and Federighi

Absent: None

Staff: Mala Subramanian, City Attorney

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Tatzin/Federighi) to adopt the agenda. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

4. PUBLIC COMMENTS – None

5. CLOSED SESSION

A. Conference with Legal Counsel – Anticipated Litigation
Initiation of Litigation pursuant to Government Code section 54956.9(c) (1 Case)

B. Public Employee Performance Evaluation (Gov. Code section 54957)
Title: City Manager

6. ADJOURNMENT

ACTION: It was M/S/C (Tatzin/Federighi) to adjourn the "City Council Special Meeting" to the City Council Regular Meeting, the Creeks Committee Special Meeting, and the Redevelopment Agency Special Meeting at 7:00 p.m. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

APPROVED:

_____
Mike Anderson, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk

IIA

City of Lafayette
City Council Regular Meeting
Creeks Committee Special Meeting
Redevelopment Agency Special Meeting

MINUTES

Lafayette Community Center **August 11, 2008**
500 St. Mary's Road, Lafayette, California **7:00 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson, Anduri and Federighi

Absent: None

Staff: Tracy Robinson, Acting City Manager; Ann Merideth, Community Development Director; Tony Coe, Engineering Services Manager; Christine Sinnette, Senior Planner; Lt. Mike Hubbard, Police Services Manager; Cathy Surges, Community Services Officer; Donna Feehan, Administrative Analyst; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk

3. PLEDGE OF ALLEGIANCE – led by Mayor Anderson.

4. ADOPTION OF AGENDA

ACTION: It was M/S/C (Tatzin/Federighi) to adopt the agenda. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

REPORT OF CLOSED SESSION
City Attorney Subramanian said the Council met in Closed Session and there was no reportable action taken.

5. PUBLIC COMMENTS - None

5. PRESENTATIONS

A. John Coleman, Director, East Bay Municipal Utility District
Update on Water Shortage
Recommendation: Receive and file.

JOHN COLEMAN, Director, East Bay Municipal Utility District, provided an update on water shortages, stating that 97% of the District's water comes from snow melt. January was a great month; however, the four months following resulted in historic shortages. He said they have requested a 15% cutback District-wide, were at 14.92% and should meet their goal in the end of

they year. If the goal is not reached, they will look at more severe rationing efforts which have economic consequences.

He reported EBMUD was in the process of building their Freeport Regional Water Project on the Sacramento River and if the water were on-line today, it would result in no rationing. The project should be completed in December of 2009 and will include desalinization efforts with three other water agencies. They are exploring more conjunctive use programs to include shortage during good years and pumping during rationed years, are trying to achieve more conservation efforts, the City should receive a request from EMBUD regarding consideration of the City aggregating irrigation meters, and he noted recycled water programs are also proposed.

Vice Mayor Tatzin said the Moraga Road work is ahead of schedule, noted no impacts regarding the project due partly to the efforts of EBMUD, and he thanked representatives. He also thanked them for their conservation program efforts, as well as successful negotiations on the mitigation for construction along Mt. Diablo Boulevard relating to the City walkway to the Lafayette Reservoir.

Councilmember Andersson echoed thanks to EBMUD representatives for their foresight in reduction outreach efforts and asked for a brief explanation regarding rationing by homeowners. Mr. Coleman said in 2007, they asked people to cut back 15% on a voluntary basis. EBMUD takes the three-year average for homeowners and businesses and their program is designed to be more equitable than in the past. They are planning to develop a citizen's advisory committee to review present and future conservation statistics and incentives. He briefly discussed exemptions for those conserving, stating further information could be found on their website.

Mayor Anderson thanked Mr. Coleman for his update on behalf of the entire Council and the City.

B. John Sutter, Member of the Board of Directors for the East Bay Regional Park District
Renewal of Measure AA
Recommendation: Receive and file.

Mayor Anderson recused himself from participation on the presentation.

JOHN SUTTER, Board of Directors, East Bay Regional Park District, said the East Bay Regional Park District will place on the ballot in November an extension of Measure AA, which was initially passed in 1988 for $225 million. Most of the land acquired was purchased with this measure. The District promised to acquire 25,000 additional acres and they actually acquired over 30,000 acres. He said another million in population growth is expected by ABAG for the two counties and 25% of the funds raised with the extended bond measure will go to cities and other smaller Park Districts. Lafayette's share would come to approximately $1.1 million for the new bond measure, and the 1988 measure was over $600,000 with 2/3 of this funded to build the Community Center. He said tax bills will not increase; the measure will simply continue if approved. The total amount of the bond measure is $500 million; $125 million goes to cities and local districts and the remaining $375 million remains with the Park District, 75% of which will be used for acquisitions and 25% for capital improvements.

Mr. Sutter said locally, $6 million will go towards Briones improvements including a plan for a trail extending from Sunol to the Carquinez Strait connecting at Las Trampas to Briones. He

distributed a brochure explaining the various projects planned, said a series of public meetings have been held which resulted in changes to the proposed draft measure, and creeks were identified as needing improvement and revision. There were many Lafayette residents attending the meetings to ask for the preservation of Acalanes Ridge and the District changed the description and funding for Briones to allow for that project to qualify and move forward.

Mr. Sutter hoped the Council could endorse the project either by Resolution or Proclamation and said individual endorsements would also be appreciated.

Vice Mayor Tatzin thanked Mr. Sutter for his presentation, confirmed there were no public speakers, and the City Council voiced interest for support of the measure.

ACTION: It was M/S/C (Andersson/Tatzin) to direct staff to prepare a letter of endorsement to be signed by Vice Mayor Tatzin to the Chair of the East Bay Regional Parks District indicating the Council's support of the measure. Vote: 4-0-0-1 (Ayes: Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None; Abstained: Anderson).

Convene joint Creeks Committee Meeting

ACTION: It was M/S/C (Tatzin/Andersson) to convene the joint Creeks Committee meeting. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

C. Creeks Committee
Goals and Accomplishments
Recommendation: Receive and file.

Scott Honegger, Chair of the Creeks Committee, introduced Co-Chair Will Elder and Jeffrey Gilman said they would provide a brief review of their goals and accomplishments and a presentation of survey results.

Accomplishments and goals included:

- Committee survey of 900 residents whose properties abut creeks and tributaries. 117 responses voicing interests and types and severities of creek problems were received. The survey identifies at-risk areas, erosion, support for requirements by the City, upstream development which would contribute to peak period flows, follow-up responses to survey anecdotal information;
- Work and involvement with City staff on procedures for obtaining information on anticipated permit and development activities;
- Initiated contact with the Contra Costa County Flood Control District to obtain additional information;
- The City has recently adopted an Environmental Strategy and the City is to provide information to all owners and residents regarding clean water, pollution control, and responsible watershed management. The Committee prepared a pamphlet on this information which is provided to creek side residents to satisfy the action item on the environmental strategy;
- Ongoing work to adopt an ordinance which would require that at all real estate closings for properties within the boundaries of Lafayette, buyers would receive a pamphlet regarding their watershed responsibilities, and the Creeks Committee will utilize Orinda's model ordinance to formulate Lafayette's draft ordinance;

- Committee work to provide comment and input on the pathway along Lafayette Creek, expressed the Committee's desire to be involved in the detail of the final design processes;
- He and Jeffrey Gilman are the designated representative and alternate to the Downtown Strategic Plan Advisory Committee, they provided specific comments to staff on goals and priorities with respect to creeks in the downtown core;
- Reinstitute the Creeks Committee Master Plan work next year.

Co-Chair Will Elder presented the results of the Creeks Survey, stating they received a total of 117 responses; approximately 30% of those said they saw no or only slight change in their creeks particularly along Las Trampas and Grizzly (or Bear) Creek. He presented a color-coded map of creek bank locations and areas of concern by creek which included responses of flooding problems, erosion, obstruction and blockage, e-coli concerns, the occurrence of cancer with dogs who had extensively played in the water, removal of trees, culvert issues, down-cutting, and he said 30% of respondents said they modified creek banks to cut down on undercutting and failure. Mr. Elder said they will hopefully get people interested in conducting a photographic record of their stream bank over the years for documentation purposes.

Chair Honegger said the Council was provided, by email, a copy of the summary findings, transmittal letter and map of the survey. He said over 70% of respondents reported some changes in their creek banks since their period of residence along a creek in the area 1 to 6 feet of geologic change and he felt this was a significant consequence to city-owned and residential properties in the City.

Councilmember Federighi questioned the use of volunteers, and Will Elders confirmed that a small portion of residents who responded were in the 70-80 year old range and could not truly take care of their own creeks.

Councilmember Andersson asked if the Committee could prioritize items which would be most feasible, and Chair Honegger said as they get a better specification of what the priorities are for creek-related projects in the downtown, they will deal with those first and work within the downtown parameters.

On behalf of the Council and City, Mayor Anderson thanked the Creeks Committee for all their work.

Adjourn joint Creeks Committee meeting

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the joint Creeks Committee meeting. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

7. OLD BUSINESS – None

8. STAFF REPORTS

A. Leah Greenblat, Transportation Planner

Introducing Ordinance 577 Amending Section 8-8122 of Chapter 8-8 of the Lafayette Municipal Code to permit active and expeditious loading, unloading and delivery or pick up of property in any place marked as a loading zone. Recommendation: Introduce Ordinance 577 and continue to September 8th for second reading and adoption.

Engineering Services Manager Tony Coe gave the staff report, stating the City has very few loading zones in town and the intent is to facilitate commercial loading and unloading regulations to adjacent businesses. He said there is a technicality in the California Vehicle Code that requires vehicles to have a commercial plate in those zones and in some instances with small businesses, it is not practical, and staff is proposing to amend the Code to recognize this and to allow those businesses to use personal versus commercial vehicles to be in compliance.

Mayor Anderson opened the public hearing, confirmed there was no public comment, and then closed the public hearing.

ACTION: It was M/S/C (Tatzin/Federighi) to introduce Ordinance 577 and continue the item to September 8, 2008 for a second reading and adoption. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

B. Cathy Surges-Moscato, Community Services Officer
Introducing Ordinance 579 Repealing Chapter 56-4 of the Contra Costa County Code Entitled "Solicitors and Peddlers" and adding Chapter 4-4 of the Lafayette Municipal Code Entitled "Solicitors, Peddlers and Canvassers".
Recommendation: Introduce Ordinance 579 and continue to September 8th for second reading and adoption.

Community Services Officer Cathy Surges-Moscato gave the staff report, stating before the Council is the Solicitors, Peddlers and Canvassers ordinance which would repeal the County ordinance and introduce it into the Lafayette Municipal Code. The Crime Prevention Commission and Police Department would administer a public education campaign, develop an informational brochure for residents, she would handle processing with background checks, issuance of photo I.D.'s of solicitors, and she described an exemption added under 4-4.12(b) which addresses children 15 and under and includes boy/girl scouts, schools, and service organizations.

Councilmember Anduri questioned the amount of work for the program, as there were many solicitors in the City. Officer Surges-Moscato agreed there were many out-of-state solicitors without I.D's and with criminal backgrounds which most likely would not fall under the permit and this would give police officers the ability to arrest or cite solicitors without permits. She guessed there would be approximately 10 solicitors or less per month who would apply, and penalties include an initial citing and court hearing for first offenders with a $100 fine. The second and subsequent offenses would result in citation of $200 and a misdemeanor which results in arrest. The third offense is $500 if within the same year.

Councilmember Federighi questioned that, if the main problem was out-of-town solicitors, could there be a way to "get the word out" to companies ahead of time rather than on a complaint driven basis. Officer Surges-Moscato said often times companies are from out of the state, they often will create another company and return and may not pay fines.

Vice Mayor Tatzin referred to Section 404.05(b) 8 and he questioned and confirmed that felonies and misdemeanors involving moral turpitude were crimes of thefts, crimes against the public and also crimes of violence which includes petty theft, grand theft, extortion, embezzlement, etc. He also questioned and confirmed that convictions would result in restrictions in holding future permits.

Vice Mayor Tatzin also questioned why the ordinance had information in Section 404.06 that was not planned to be used. Chief Hubbard provided background, stating the County when processing permits would send fingerprints and perform a complete background check through the Department of Justice. This would provide the City with a verified account about whether persons committed crimes of theft or violence, whether they were ever convicted, and the problem with enforcing those County ordinances was the length of time the County required for a solicitor to get a permit, which was an extremely long process. He said they will not do the same thing the County is doing with this ordinance; they will not roll fingerprints and do a criminal history check. They will check for warrants, local contacts, and DMV check as allowed by law to do at the time. A full criminal history check will not allow due to timing to assign the permit. They felt this would allow them to at least check for certain items which would affect the issuance of the permit.

Vice Mayor Tatzin questioned the hours for allowable canvassing, and Chief Hubbard said much discussion focused on this area and they agreed that 6:00 p.m. was the cited family time.

Councilmember Anduri questioned the enforcement process and gave an example of a complaint called in by a resident. Officer Surges-Moscato said the requirement states each and every day but arguably, if the City wants to cite them additionally, Section 4-4.13(b) would need to be amended. Chief Hubbard said the ordinance will allow them to confiscate any evidence to prove the crime and it is amazing how fast those who run the organizations show up at the Police Department and significant cooperation is reached. And, it has not been their experience that solicitors will continue to go door-to-door. He said there will be times police will be requiring citizens to become involved in helping police by doing a citizen's arrest as well.

Councilmember Federighi questioned how effective were the programs, and Chief Hubbard said he could not determine this, but Orinda had just passed a similar ordinance, Moraga has had an ordinance for awhile and the Chief has found it to be somewhat useful.

Councilmember Anduri questioned how often people were soliciting during the summer, and Chief Hubbard said it was a light summer with very few complaints by residents.

Councilmember Andersson referred to 4-4.412(a) and he questioned the term, "regular meetings and services", and City Attorney Subramanian thought this was a holdover from an existing ordinance and relates to a business rather than a residence, and this is for the actual peddling or solicitation.

Councilmember Andersson questioned if there was an exemption for political campaigning, and City Attorney Subramanian said this falls under the definition of canvassing which would fall under the hand-billing exception, which do not require a permit, but there are limited hours for canvassing and hand-billing.

Councilmember Anduri referred to 4-4.412(a) and he confirmed with the City Attorney that the section was meant to cover door-to-door, and she could amend the language to better reflect the statement's true intention.

Mayor Anderson confirmed there were no public speakers on the item.

Councilmember Anduri referred to a typo on the second page of the ordinance, Section 4-4.402(b), fifth line down, "services to be furnished or performed". He referred to Section 4-4.412(a), asked to make the following change: "...regular assemblies, meetings, or services."

Mayor Anderson referred to possible changes under 4-4.405(b).8 and 4-4.406.5 and Vice Mayor Tatzin felt the objectives of the ordinance are good, we want to be sure people who come to residences will not pose a danger, he felt it was difficult for those who come out of prison to find jobs and therefore, it is hard for them to try to change their lives and this type of ordinance does not make this any easier for them. If Lafayette is the only city doing this would have an impact, as others would follow. He would have trouble seeing the point of not allowing someone a permit who might have committed a petty theft 25 years ago, said there are more African-American men in prison of college age than are in college, and he felt the City might have gone overboard in its restrictions, but was not sure how to change it, and he was concerned about societal precedence and the direction an ordinance like this sets.

Councilmember Federighi acknowledged Vice Mayor Tatzin's concerns, and Chief Hubbard noted the concern therefore is at what level of the convicted person does the Council want going door-to-door. One of the things they look at is no one wants to be the person to distinguish someone with a petty theft crime 25 years ago between someone who committed a more recent crime. They were looking for something that was hard and fast, black and white rules that did not allow for someone to have to be put in a place to use that kind of discretion.

Councilmember Anduri said under the wording of the ordinance, police has this discretion, with the word "may". He said what we are talking about here is a situation where people are coming to homes, which is now limited to the middle of the day, but people feel vulnerable in their homes some of which are isolated, there are not a lot of opportunities for jobs, and given the history of what everyone has experienced, he can understand this type of restriction.

Mayor Anderson said if we are actually issuing permits, we know they are out there and we know where they are going or can find out. He questioned if this would allow enough comfort in knowing those who are out there, given potential problems. Chief Hubbard said the background check conducted does provide a certain amount of comfort in knowing who is in the community and knowing where they are going. Mayor Anderson questioned whether the process of issuing a permit does a lot to address the City's concerns because we will know who is out there.

Councilmember Andersson said he can understand the need for the process, acknowledged the word, "may" but said the line may be drawn so far back in time to particulars and he believes there is room for specifying timeframes somewhere between 3-25 years for a crime.

Councilmember Federighi referred to Section 4-4.405 and said it states, "shall deny the permit if the applicant has ever been convicted of any felony or misdemeanor..." which would fall under a petty theft 25 years ago. She most questioned whether this would nab those it is directed towards---the out-of-towners who would not apply. Chief Hubbard said it will give police the authority to take action against those people, which is their primary goal and not currently under the current guidelines. Vice Mayor Tatzin agreed with Councilmember Federighi's comments.

Mayor Anderson suggested the ordinance go back to staff and/or the Crime Prevention Committee to see if there is a way to create something that gives recognition to those who are trying to restart their lives.

Councilmember Anduri agreed and thought this sort of regulation would provide an opportunity for those who fall under a specific conviction category.

ACTION: It was M/S/C (Tatzin/Federighi) to direct staff to send the draft of Ordinance 579 back to the Crime Prevention Commission for further refinement. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

9. PUBLIC HEARINGS

MS504-87CCII – ROBIN AND KRIS LEAMY (APPLICANTS & OWNERS), R-40 ZONING: Request for a minor subdivision to divide 19.23 acres into three lots for residential development pursuant to Chapter 6-20 and Chapter 6-30 of the Lafayette Municipal Code (LMC), located at 4123 Happy Valley Road, APN 247-010-019 and 020 ("Project"). City Council consideration of Resolution 2008-37 relating to the following: (1) adoption of environmental findings; (2) certification of a supplement to the environmental impact report; (3) adoption of a mitigation monitoring and reporting plan; and (4) approval of MS504-87CCII.

Recommendation: Adopt City Council Resolution 2008-37.

Senior Planner Christine Sinnette gave the staff report and described the request for a minor subdivision, acreage of parcels, slight realignment of the interior access road and conservation easement, repair of two on-site landslides, provision for an on-site storm water drainage system and an enhanced conservation and trail easement. She said the project description has been revised to state that the western portion of the landslide complex at the Parcel B/C lot line, upslope of the access road, will be repaired to adequately stabilize the road. All of the landslide and colluvial soils east of the road will be repaired through excavation and compaction. This has been part of the project over the last year; however, it was not explicitly stated in the project description and has now been added to the Response to Comments and changes to the Final EIR.

At the Council's last meeting, the public hearing was conducted, the Council considered the supplement to an EIR as well as information on the project and conditions of approval. There was also staff analysis of the project's conformance with the General Plan, zoning and CEQA. To date, a draft Supplement EIR to the 1988 EIR has been prepared. There were 7 sets of written and oral comments on the Draft EIR during the public review period which have been evaluated and responded to and the document before the Council constitutes the final EIR which is the Responses to Comments as well as any changes to the Final EIR based on those comments. The Responses to Comments were prepared by City staff along with the City Attorney's Office and with input from the City's geotechnical consultant.

Recently, questions have been raised by the public, most of which have been answered through a variety of documents; however, some could use further clarification, such as the landslide repair. She said there is a comment that takes issue with a statement that staff made that the primary purpose for the remedial repair at the lot line at Parcels C and D is for the road stabilization, and not necessarily the building site. A question of the Parcel C building site is within the identified lateral limits of this landslide; however, all of the unstable soils east of the road that would encompass this part of the Parcel C site would be repaired. As far as any future development of that site, there would be no impact from unstable soils.

There are also some other comments relating to geotechnical and hydrology issues. While the Draft EIR was under review, the Planning Commission looked a few suggested changes to some mitigation measures to help clarify the intent, scope and timing of those measures. Concerns have been raised by the public that it may not have been appropriate to revise those mitigation measures or eliminate them. The five in question were measures 5, 6, 7, 8 and 12. When staff presented the information to the Planning Commission, they noted that the revisions

did not involve any changes in the City's significance determination of environmental impact, but were simply a clarification of the existing analysis and recommended mitigation measures. Despite this, staff has reconsidered the revisions and is recommending that mitigation measure 8 not be eliminated. This was for additional study of a landslide that might impact Parcel A. It is expected that these studies will confirm that the development of Parcel A would not be impacted by landslide.

Regarding the other four mitigation measures, the reasons for those revisions are explained in the memorandum of Tony Coe, which is included in the staff report and in the Final Supplemental EIR.

Mitigation Measure 6 speaks to additional sub-surface testing for the individual home sites and refers to the studies and analyses that would typically be done to site a home or building during the general construction phase. There is no deferral of studies at this time, particularly since the landslide on Parcel C will be repaired. Any other study done during the design review phase would simply be the typical engineering studies needed for foundation design.

She said there have been other comments regarding mitigation measure 9, which states that a thick layer of non-expansive imported soil would likely be needed to help stabilize the road. This will not result in a significant impact. It is not necessary to import large volumes of soil in order to make the access road stable because on-site soil can be used for the sub-grade beneath the pavement section of the road. The only imported materials that would be required for the road would be the aggregate base rock and asphalt, which are materials that would typically be brought onto any site for road construction.

There have also been comments about the project and its potential impacts on downstream drainage and off-site flooding; flooding as a project impact has not been identified in the 1988 EIR, the 2008 Initial Study or the Draft Supplemental EIR. In fact, FEMA Flood Insurance maps for the area which would include the Orinda-Lafayette city limits east towards Upper Happy Valley Road do not even describe the area as being susceptible to the 500 year flood. Additionally, mitigation measure 12 requires the applicant to provide an analysis of the existing storm drain system down to its discharge to Happy Valley Creek despite performance criteria that post-project runoff is to be detained or retained on-site. In addition to the preliminary drainage plan included in the Supplemental EIR, the applicant has provided a revised drainage plan showing a specific drainage plan for Parcel C, and this revised map is included in the Council's staff report as well as in the Responses to Comments.

Finally, there were comments about construction-related impacts, use of a stockpile and remedial earthwork and maintenance of subdivision improvements such as roads and drainage improvements. All of these have been addressed in several locations including the Draft and Final EIR and mitigation measures 4, 10, 16, 17, 18 and 28 and in conditions of approval 11, 15, 26, 37, 47, 55, 57, 58, 66, and 68. She said Attorney Christopher Calfee was also present tonight from BB&K to address comments about CEQA.

CHRISTOPER CALFEE, BB&K, spoke regarding a letter which was submitted to the City today from Archer and Norris, on behalf of neighbors, dated August 11, 2008. He said their first issue is that a number of sections were left out of the Response to Comments provided to the Council and uploaded to the City's website. Those sections included two master responses to comments, which were inadvertently left out of the version provided to the Council, and he said staff has provided copies of those responses to the Council for consideration. He said those responses address legal issues and not environmental issues and the purpose of staff in

providing those master responses to comments is to provide additional detail and background on the project, in particular, certification of the 1988 EIR and the purpose of the supplemental review, and this information augments information that was already provided in the Supplemental EIR on pages 25-28.

A second issue relates to review of the Responses to Comments. The letter claims that more time should be provided for review of the Responses to Comments. He said CEQA provides a public review period for the Draft EIR but it does not require a similar review period be provided for a Final EIR.

There was also a comment on page 6 of the City Council's resolution in brackets, which was inadvertently left in and it should be deleted from the resolution. Finally, as to the preparer of the Responses to Comments, Mr. Calfee said the letter noted that there was no explanation of how the applicants participated in the preparation of the Responses to Comments and the Supplemental EIR listed the preparers and consultants involved. He noted that in Section 8 of the Council's resolution there is reference that the EIR reflects the City Council's independent judgment and analysis and CEQA does not require more evidence of the City's involvement in the process.

Vice Mayor Tatzin referred to the letter received by the City's consultant, Alan Kropp, dated August 11, 2008. He said he has not read it, but noted this was the letter that the public feels they have had very limited time to deal with, and he confirmed with Mr. Calfee that the information provided by Kropp was provided in order to provide clarification of what was said at a prior meeting, which is information to help the City Council in their deliberation on the project and does not target the Draft EIR that is required to be reviewed publicly.

Councilmember Federighi said she noticed on the July 28th draft conditions of approval, what was then number 43 referring to mitigation number 5, the wording was "additional field investigation and analysis shall be conducted to determine the...." And she said today's wording of August 11, 2008 on page 9 of 18 states, "...at the discretion of the Engineering Services Manager and consultant, additional field investigation and analysis may need to be conducted to determine..." and she questioned why the wording had changed. Ms. Sinnette said this is explained further in the memo; that staff believes that the lateral limits of the landslide have been identified. There were borings taken that identified the mid-area of the depth of the landslide. What may need to be done, at the discretion of the City Engineer, is an additional investigation in the form of downhole logged boring.

Councilmember Federighi questioned the language and felt some of the work may not be obligatory. Ms. Sinnette said it was always at the discretion of the City Engineer but the wording was changed to "may" from "shall." Councilmember Federighi questioned whether there will be additional investigation at the final map stage, and Mr. Coe said more than likely there will be, but the wording does not provide for absolute certainty of the requirement and the reason is explained in his memo. Based on the work to date, Mr. Kropp has a fairly high level of confidence that the extent of the site is known. It is only the depth the City is trying to confirm with the additional work. In Mr. Kropp's memo, he states that he would recommend this be done if needed. Relative to the finding the Council is trying to make with the EIR, he did not believe the additional depth that needs to be confirmed would change any of the findings.

Councilmember Federighi said she still was having problems with the change of wording, as it still seems that additional work is anticipated. Mr. Coe agreed but said typically on a project of such small scale, for the work to be confirmed is up to the discretion of engineers at the time

design details are developed and he did not recall any instance of a project which required such stringent wording.

Mayor Anderson said mitigation measures have language contained in them that focuses on such work to be addressed when design level subsurface testing is conducted. There will be assessment done which is contained in mitigation measure 7. Ms. Sinnette said it is anticipated that additional testing will be done, but it does not have to be downhole logged borings and they are not contradicting each other. She said because the one landslide is being repaired, there are no options for other remedial repair. When the mitigation was originally written last year there were only going to be buttresses on either side of the road at the landslide at Parcels B/C. Now the landslide will be totally repaired on the eastern side; this is why that section is taken out.

Councilmember Andersson said if Mr. Kropp recommends that a large diameter boring be performed, more than likely it will, but he questioned what additional information there will be to indicate whether or not this will actually be performed. Mr. Coe said more than likely upon the review of information by the consultant for that purpose. Councilmember Andersson said if there is no more data collected, there is concern that if it is not set in stone, then it may not be done, and he questioned if it would be possible to have that discussion and make that final determination. Mr. Calfee said the City is trying to be consistent with it usual practice for a project of this nature and size; that these determinations are made at the design detail stage and not at the EIR stage.

Councilmember Anduri referred to the letter received today under Item 2. There is no legal requirement under CEQA that the City provide time for additional comment, so legally he confirmed with Mr. Calfee that the Council can consider this and proceed. He questioned whether sufficient time was given for neighbors to review the EIR, and he questioned whether a precedent would be set in establishing more time. Ms. Sinnette said staff does not have an in-house, standard procedure except that information should be provided 72 hours before a meeting. It would be up to the Council to determine whether adequate time has been allotted.

Mr. Calfee said when comments have been submitted by a public agency, proposed responses to the comments need to be provided to that public agency 10 days prior to certification. In this instance, there were no comments submitted by public agencies. Therefore, the normal 72-hour Brown Act requirements would apply.

Mayor Anderson said condition 44 refers to the discretion of the Engineering Services Manager, and he confirmed that the Council has full latitude on how to condition the project as well as mitigation measures. He felt therefore and confirmed with Mr. Calfee that there was some room to allow "there shall be testing" regardless of what is written if the Council chose to do so.

Vice Mayor Tatzin said this reminds him of a similar project at the end of Springhill Road with similar numbers of neighbors and part of it had to do with lack of trust, damage that might occur to a creek, and the Council finally approved the development with certain engineering decisions to be made after the approval similar to what has been proposed in this case. There was opportunity for neighbors to also review the engineering drawings. Mr. Coe said all plans and drawings are always available for viewing, and he said staff knows that there is a likelihood that additional work will be done, but it is the timing of it. Given Mr. Kropp's input, he did not feel that work to be required now would change any of the analysis, impacts, or findings the Council would need to make. At the time the project is underway, the owner will be responsible for conducting such work and at that point, the City can make the plans fully available to neighbors

who are concerned about the project and make comments, which he will facilitate. He was not sure there was a better way and this has worked satisfactorily in the past.

Mayor Anderson opened the public hearing.

DAVID BOWIE, Attorney for the Leamy's, said he believes the idea of neighbor, consultant, and City Engineer involvement works very well, thinks it should be employed in this fashion, and he said this is exactly the reason condition language has been changed most recently. He said the situation will be evaluated, most likely additional work will be done, the Council has confidence and faith in their staff, and it is important to provide this flexibility to deal with problems as they arise rather than impose some sort of mandatory methodology that may not be appropriate at all. If this happened, they would need to return with a change of conditions application which is a horrendous effort and does not make sense. He complimented staff and the City Attorney's office for their work and report on the project, the response is very analytical, the project has been studied more than any project he has been associated with in the past, and he thinks the work indicates an independent analysis on the part of the City. He said it was not necessarily improper also for an applicant to have some input; it is only improper if there was no independent evaluation by the City. He reiterated points in his letter, said the only real concern raised by neighbors is the issue of soils, and the Leamy's approach is to fix it and further, this is not even a CEQA issue but a pre-existing condition, everything will be better than it currently is and the project will make the neighborhood better through safer conditions. He introduced Robin Leamy who was on the 1984 Olympics freestyle relay race.

ROBIN LEAMY, Owner/Applicant, said he is a 10-year resident, he introduced his wife Kris, and said they have 5 children who will be in 4 different schools in Lafayette. He said their original plan was to do a driveway across the slide to access Parcel C. It was because of the neighbor's request for changing it into a full slide repair, which was voluntary for them to do rather than buttress it at a much more expensive cost. He said secondly, Parcel C is what they would like for their personal home site, safety is paramount to them, they have more invested than anybody. Regarding the possibility of downhole logging, he asked Ms. Sinnette to place this in the conditions of approval which will respond to Vice Mayor Tatzin's remarks at the last meeting. If required, they will do it and will embrace it. He thanked the Council for their consideration and hoped for approval of the project.

Mr. Bowie summarized by stating there is no requirement under CEQA that there be a further comment period regarding the Final EIR, and there were constant requests for additional time to respond to neighbors, there is nothing new with the application, except for differing verbiage.

Public Comments:

PAUL SEIDELMAN, said he is a licensed geotechnical engineer, said it was one year ago he came before the Planning Commission when he stated the application had major problems and was told there was no landslide under Parcel C. One year later, there is this recognition and at the last meeting he and Alan Kropp were in agreement that the slide was there. Mr. Seidelman said it was poorly delineated, there was only one boring and he commented on this in the EIR, and there were numerous subsurface borings and trenches to identify the slide, but there was only one that penetrated the slide. It was defined as a three-dimensional object with one penetration of the surface. There are trenches which indicate where the slide may not be, but there is only one boring that shows where the slide is. He has voiced concerns for over a year that the house site on Parcel C may be under a deep seated slide. There is an erosion bench or a slide bench present at the site, there is a scarp behind it above the proposed building site,

there is the actual slide mass which extends beyond the fence and above it, and a map of the slide is still not shown in the EIR. The discussion is very misleading as the entire slide is not going to be repaired---a buttress repair is being proposed above the property line and this is appropriate. To fix the entire slide, Mr. Johansen's property would need to be taken away, as there is 40 feet of slide under his house. He said they have asked what the impact is of repairing and buttressing the slide on the Johansen house and the response is that it will be better when the slide is repaired and if the dewatering causes settlement in the house, so be it. Mr. Johansen will not be better off if his house starts to settle, there is 40 feet of landslide debris under his house and it will be dewatered. He thinks there are ways to mitigate this and the EIR is the document that discusses mitigations, and he believes a downhole logged boring should be done and it should be a "shall" and before the design drawings or construction. He also questioned whether or not the project would need to be returned for a public hearing for a landslide repair review after plans have been issued.

Councilmember Andersson referred to dewatering mitigations, and asked what they were. Mr. Seidelman said an analysis of groundwater will probably show that at this time of year, there is a groundwater table under Mr. Johansen's house and it is probably at a seasonal low. This can be established and used as a design criteria to be matched after the dewatering occurs. So instead of it being reduced on a summer low level, which the house has adjusted for, it, would be at that level year-round. The dewatering would not be so severe as to cause it to go lower than that, which is achievable. He said the flow line of the subdrain could be set. What also comes in play is when you do a stability analysis—the base of the newly constructed buttress fill is going to be below the water table, and this means the value of cohesion will be different than what is used in the report. He said he also commented on this and said the DOT recommends an 80% conduction in cohesion for fills 10-20 years in age, and the very high value used by the consultant is incorrect. So, this should all be put together—the water table changes and the parameters used to buttress the slide have to be coordinated which is not being done.

Councilmember Anduri said Mr. Kropp refers in his letter as a theoretical possibility and says that based on the evidence he reviewed for this project, his opinion is that there is no indication that such a dewatering problem would occur. He asked if Mr. Seidelman had seen this occur in other instances, and Mr. Seidelman said he has, and said not only is there no indication, there has been no study of it, and therefore no one would know. He said he does not know where the watertable is as there is no discussion on its location at all.

ED SHAFFER said existing responses in the EIR were referred to as not needing to be specific to the public before action is taken which he felt was contrary to CEQA. He said there are 270 pages of documents without adequate time for review is against the policy of public participation and he would question whether or not the Council has reviewed the material to make a knowledgeable decision tonight, pointed out that there were two mistakes in the minutes of the July 28 hearing. He said he never saw an EIR that did not have extensive research on the watertable, felt this was removed from public review under CEQA and he said he was available to answer questions.

Councilmember Federighi questioned what amendments were requested to be made in the minutes, and Mr. Shaffer referred to page 21 at the top, and missing from the first paragraph is: "tonight that Mr. Kropp had discussed the risk of settlement and said that dewatering might cause localized settlement of the houses below the slope" which is missing from the paragraph. There is some discussion from Councilmember Anduri confirming that "dewatering would not cause the de-claying of the neighbor's soil and substantial improvement will be seen from not having a landslide come onto the property and the potential small detriment of local settlement",

which he said was not stated. He said the next paragraph that talks about the slide being repaired, Mr. Kropp said that "only one boring had been done that penetrated the slide plane" and this statement is missing.

Councilmember Anduri confirmed with Mr. Shaffer that he understands under CEQA, there is not a legal requirement to allow for additional time for review.

PETE COLBY said most neighbors are all away or on business and they are still very completely uncomfortable with the project as proposed, said in listening to comments of the staff and Council, everyone is working very hard to shore up problems with this application, and the solution to the problem is to turn the faucet off and replace the pipe and do it right.

Councilmember Federighi questioned whether Mr. Colby meant in his comments that the landslide should be repaired on the property. Mr. Colby said he was referring to the process—the process has been done incorrectly to start, he suggested getting the work done, formulate a remedy, and put the process out in the public's eye as it should be in the CEQA process.

Rebuttal – Applicant

David Bowie, Attorney for the Leamy's, said there have been four soils engineering firms involved in this project which he named into the record, and felt the project has been extensively studied. To say the process should be stopped to do additional study is ridiculous; CEQA does not require the type of detail that is involved in actually doing plans which will be used to do the construction tests involved. CEQA requires that information be provided from which the Council can adequately analyze what mitigation measures might be required by significant environmental impacts of which this project has no significant impacts. He said it is an existing impact and not caused by the project. As Mr. Coe pointed out, there will be additional study undertaken which will be done as part of the design, development and construction drawings as happens in every other project. He said this project should be entitled to the same methodology as other projects are entitled to and should not be excessively burdened. No one else in the map stage is required to do the level of investigation that is being demanded by the neighbors. He said they are not permitted or required to go off-site to drill 40 feet through the floor of the Johansen's, but take care of the problem on the Leamy's property. However, all of the work to be done will benefit the Johansen's and he believes the Council has more than enough information to close the CEQA discussion, leave the matter up to the City Engineer and other consultants. He believes the Alan Kropp report is very comprehensive and complete, Tony Coe's memorandum is accurate, and urged the Council to approve the project.

Councilmember Anduri said Mr. Bowie said several times that the landslide is not a CEQA issue and he questioned whether it was a CEQA issue or a mitigation measure. If this were a single family residence, it would be seen solely as a mitigation issue. Mr. Calfee said the remediation of the slide was included as a CEQA issue in the Supplemental EIR because that is a potential environmental issue that could arise from ultimate development of the property.

Councilmember Anduri said something is going to be done for the property as far as the project is concerned which will require evaluation, and he questioned the impact of what that remediation would be. Mr. Calfee said the remedial work was proposed in order to make the project safe. This work will be required as part of the ultimate development of the subdivision. Mitigation measures are included in the document to address construction-related issues and remedial work is included as part of the construction which is foreseen as part of development

of this project. He said Mr. Bowie is correct in that it is a pre-existing condition and in his opinion it has been adequately analyzed as part of the CEQA document.

Mr. Bowie said his point is that this is a pre-existing condition so analyzing exactly where it is and how deep it is, is not a CEQA issue because it is not related to the project at all. He said he never said there shouldn't be an evaluation on it, and if they are going to be doing the remediation, there may be some environmental impact relating to that remediation. But the point is, is that this condition has existed for a long time irrespective of the project.

Councilmember Andersson asked Mr. Kropp to comment on Mr. Seidelman's suggestion for mitigation, and Mr. Kropp said so far there have been a number of exploration points which shows little if any groundwater. A couple of borings drilled in the winter of 2006 showed some water 15-20 feet down. Others hit no water, and there is a general understanding that there is not a lot of water other than localized conditions there. This kind of water would be picked up in the over excavation and in his experience, where you stop that excavation point, the dewatering impact peters out fairly quickly down slope and he cannot imagine there would be any significant settlement as a result of dewatering.

Councilmember Andersson questioned that if further tests or remediation result in more borings, what would be the appropriate mitigation at that point. Mr. Kropp said he continues to believe that subsurface drainage is highly beneficial. If one was down 40-50 feet within 10 feet of the property line you may not dewater to that full depth because the result of drawing down that water peters out fairly quickly when you cross over to where you stop the excavation point on private property.

Councilmember Anduri said there was no discussion of the watertable in the EIR. He questioned what has been looked at in terms of what water is there now, how important is to have done that and how comfortable Mr. Kropp felt about his opinion that it would be a rare occurrence for there to be a problem. Mr. Kropp said normally each time there is a boring or test pit excavated, there is a notation of whether they get water below the ground surface. Very few of those ever hit water, but he did not remember an exact number. He said there has been evaluation by documenting where it was encountered at those 40 exploration points and knowledge about where the water is below ground by that specific tool. There was not very much if any water encountered even in the recent borings down by the property line. So the idea that you will hit a lot of water is very unlikely and the fact that you will get a lot of water and you are going to draw it down and then that will have an impact is a compounded unlikeliness.

Councilmember Anduri said this seems to be an unusual subject of the application; usually in subdivisions the City has visibility, density and a myriad of other issues. But here, there is no opposition to a three-lot subdivision and three houses, but the one issue of concern is safety. He questioned how comfortable Mr. Kropp felt based on his review of the project that the safety issues can be addressed if the Council proceeds with approving the Supplemental EIR and then save the testing for the design phase of the project. Mr. Kropp said he feels very comfortable, assuming all conditions of approval are implemented, that safety issues will not be significant at all.

Mayor Anderson closed the public hearing. He felt that in this case, the matter is one of a technical engineering question that none of the Council is capable of deciding as to whether the solution is appropriate or not. For him, the real question is not so much that the engineers have done enough work, but has everything been adequately covered in the documents before the Council. He said the geotechnical engineer will have the responsibility of dealing with the

problems encountered in the field which are in the conditions of approval, as well as mitigations to address potential impacts. He asked to focus back on conditions and mitigations, and thinks the landslide issue takes the Council away from the main issue.

Councilmember Anduri feels totally incompetent to judge the technical issues and was glad experts were present, he has a lot of confidence in the City Engineer and City Attorney, thinks the mitigations do provide that the City Engineer will be involved, and he is hearing from those individuals that the City is protected and supported the mitigations proposed.

Vice Mayor Tatzin said there is a good collection of experts in the room who do not all agree, he had asked the City Engineer about the Springhill development and he thought it went well, clearly there is more investigation that will go on and said he does not feel qualified to resolve the issues that may come up as certain things are learned. So, he could see a series of reasonable mitigations coupled with a process that would allow the very interested parties to exchange data in a review period before decisions are made so that neighbors get notified within a reasonable period of time so this is viewed as a satisfactory process. He thought this could be developed as a separate directive to the City Engineer as to how it should be handled. This would also go a long way towards offsetting concerns regarding the timing of the process. He recognizes that legally the City has met all of its requirements regarding timing; however, the Council frequently hears comments from residents saying they need more time to review documents, and he could see addressing the spirit of this and allow for interchange down the road.

Councilmember Federighi questioned and confirmed that Vice Mayor Tatzin suggested allowing time as needed in moving forward for neighbors and experts to be able to review what is learned. Vice Mayor Tatzin said he was not sure if more time was given it would substantially differ from comments relayed at tonight's hearing, and issues can only be resolved upon further evaluation.

Councilmember Andersson believed there was a level of confidence the Council has in hearing technical issues to make a judgment about what more needs to be done.

Mayor Anderson suggested reviewing the mitigation measures and conditions of approval and see if there were any major concerns or changes, or directive to the City Engineer to work with the neighbors on information as it is revealed in the process.

Ms. Sinnette suggested the Council start on Exhibit B which includes conditions and all of the mitigation measures. Vice Mayor Tatzin suggested a 5-minute break.

BREAK
The Council took a 5-minute break, and thereafter reconvened the regular meeting.

Mayor Anderson referred to Exhibit A and questioned if there were concerns or comments from the Council.

Councilmember Federighi referred to mitigation measure 5 and asked that it be consistent with mitigation measure 7. The Council agreed for mitigation measure 5 and 7 to state: "...additional field investigation and analysis shall be conducted to determine the final depth of remedial earthwork. At the discretion of the Engineering Services Manager and his consultant, additional field investigation may include..."

Regarding Exhibit B, Conditions of Approval, Mayor Anderson asked for comments.

Councilmember Federighi referred to Condition 44, and said the condition references mitigation measure 5, and she asked to make wording changed as follows: "Additional field investigation and analysis shall be conducted to determine the final depth of remedial earthwork. At the discretion of the Engineering Services Manager and his consultant, additional field investigation may include..."

Mayor Anderson referred to page 16, Condition 76; he asked to add a clarification to the statement; "that it is likely that a thin layer....may be needed".

Mayor Anderson referred Resolution 2008-037, page 1 of 31 and asked for comments.

Councilmember Anduri referred to page 15 of 31, mitigation measure 5, and asked that it be revised to be consistent with the amended language.

Vice Mayor Tatzin asked for a discussion about timing. He said for portions of conditions of approval that address the landslide, he asked that the City Engineer would determine what studies he believes need to be conducted, those studies would be conducted and circulated to neighbors and give them a reasonable period but not excessive period to comment on, and then review their comments as he decides what remedial action, may be necessary, because after that follows the mitigation of measure five which we just talked about. This allows for the neighbors to comment on this method of remediation. Mayor Anderson wants to find out if the staff is comfortable with this. Mr. Coe stated he is comfortable with that. This is a separate directive to the City Engineer in regards to this project.

ACTION: It was M/S/C (Tatzin/Andersson) to adopt City Council Resolution 2008-37, as amended, and making the necessary findings. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

Mr. Coe confirmed that Ms. Sinnette would provide contact information of neighbors.

ACTION: It was M/S/C (Tatzin/Andersson) to direct the City Engineer, consultants and staff to implement conditions of approval and mitigation measures, particularly those involving assessment and remediation of the landslide; that there be communication of the studies to be done and results of those studies and discussion of the remedial work with the neighbors and that everyone have sufficient time to have input; and for the final decisions to be made by the City Engineer. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

10. CONSENT CALENDAR

Councilmember Andersson requested removal of Item 10.A.1., Vice Mayor Tatzin requested removal of Items 10.A.2 and 10.H. Councilmember Anduri complimented the work relating to Item 10.D.

ACTION: It was M/S/C (Tatzin/Anduri) to approve Consent Calendar Items B, C, D, E, F and G. Vote: 5-0-0 (Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

B. Parks, Trails & Recreation Commission 2007-2008 Accomplishments and 2008-2009 Goals

Recommendation: Receive and file.

C. **Final Acceptance PS 06-05, Embankment Stabilization Pleasant Hill Road North of Rancho View Drive – Federal Aid Project ER-4433 (010)**
Recommendation: Accept Project PS 06-05, Embankment Stabilization Pleasant Hill Road as complete and authorize staff to file a Notice of Completion.

D. **Administrative Regulation 524-Green Purchasing Policy**
Recommendation: Approve Administrative Regulation 524.

E. **Award of Contract PS 06-06; Embankment Stabilization St. Mary's Road Near Wallabi Court, Federal Aid Project ER-4433 (011)**
Recommendation: Award Contract PS 06-06 to Jim Freethy Excavating, Inc. in the amount of $91,087.

F. **Resolution 2008-39 adopting the Contra Costa County Urban Limit Line (ULL) as Lafayette's ULL for the purposes of compliance with Measure J to establish a voter- approved ULL**
Recommendation: Adopt Resolution 2008-39.

G. **Settlement Agreement between Bruzzones' and the City of Lafayette regarding challenges to the City's Hillside Ordinance, General Plan Update, and General Plan EIR**
Recommendation: Authorize the mayor to execute the Bruzzone Settlement Agreement.

Items Removed for Discussion:

A. **City Council Minutes**
1. **July 14, 2008**
Recommendation: Approve.

Councilmember Andersson referred to page 14, last paragraph, and asked that "discending" be changed to "dissenting".

ACTION: It was M/S/C (Tatzin/Andersson) to approve the minutes of July 14, 2008, as amended. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: Noes; Absent: None).

2. **July 28, 2008**
Recommendation: Approve.

Edward Shafler stated that he was not quoted properly in the July 28 minutes. Vice Mayor Tatzin asked that the tape be listened to prior to changing the minutes. City Attorney Subramanian noted these are not verbatim minutes and would not recommend adding the comments, and she invited Mr. Shaffer to listen to the tape(s).

Councilmember Federighi referred to page 21, number 22...believes the letter from the consultant outlines all concerns, but these could be voiced more forcefully".

ACTION: It was M/S/C (Tatzin/Federighi) to approve the minutes of July 28, 2008, as amended. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

Convene Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to convene the Redevelopment Agency. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

H. Agreements with Brian Goggin and Kana Tanaka for the Library public art projects
Recommendation: Approve and authorize the Executive Director to execute the agreements.

Vice Chair Tatzin said some of the exhibits were not attached, and Community Development Director Ann Merideth said until the next phase is negotiated, the exhibits would not be included. He confirmed Appendix B was also not done at the current time.

ACTION: It was M/S/C (Tatzin/Federighi) to approve and authorize the Executive Director to execute the agreements. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the Redevelopment Agency. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

11. COUNCIL/COMMISSION REPORTS

A. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.

Councilmember Anduri reported on behalf of Vice Mayor Tatzin, stating they participated in a meeting of the Roads Task Force, Tracy Robinson provided a staff report, the meeting was productive, they will await the Finance Subcommittee reports and then the group will review the report in January and Council will plan on how next to proceed.

Mayor Anderson reported on the Mayors Conference held in Martinez, said Councilmember Federighi and Andersson and he attended, there was a presentation by Jerry Kraft. He also attended the introduction of the Jazz Workshop at Stanley School.

Vice Mayor Tatzin reported he and Councilmember Anduri attending a LAFCO Study Session which focused on the incorporation of Alamo and a comprehensive fiscal analysis.

Councilmember Anduri recommended reading the Tom Friedman column on Sunday which talks about Denmark in 1973 where 90% of their energy needs came from the middle east and today, none of it comes from the middle east.

City Clerk Robbins reminded the Council that because of the late hour at the last meeting, Councilmember Federighi and Andersson did not report on their attendance to an East Bay Division meeting, and they provided a brief report regarding the U.S. exportation of dollars to foreign countries and a closer look at nuclear costs and risks and benefits.

B. Mayor Anderson and Councilmember Andersson
Appointing one new member to the Design Review Commission

Recommendation: Adopt Resolution 2008-38 appointing one new member to the Design Review Commission.

Councilmember Andersson reported they interviewed five candidates for one opening, all candidates were excellent, and they recommended Andre Ptaszynski for appointment.

ACTION: It was M/S/C (Andersson/Anderson) to adopt Resolution 2008-38 appointing Andre Ptaszynski to the Design Review Commission. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

C. Vice Mayor Tatzin and Councilmember Andersson
Appointing one new member to the Emergency Preparedness Commission
Recommendation: Adopt Resolution 2008-40 appointing one new member to the Emergency Preparedness Commission.

Councilmember Andersson reported they interviewed two candidates for one opening, both candidates were excellent and they recommended Dennis Rein for appointment.

ACTION: It was M/S/C (Andersson/Tatzin) to adopt Resolution 2008-40 appointing Dennis Rein to the Emergency Preparedness Commission. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

12. WRITTEN COMMUNICATIONS - None

13. ADJOURNMENT

The Council adjourned at 10:35 p.m. to the next regularly scheduled meeting on Monday, September 8, 2008.

APPROVED:

_____
Mike Anderson, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk